

REMARKS

Summary

Claims 1-3 and 5-34 stand in this application. Favorable reconsideration and allowance of the standing claims are respectfully requested

35 U.S.C. § 102

At page 3, paragraph 3 of the Office Action claims 1-3, 5-17, 25-26 and 29-34 stand rejected under 35 U.S.C. § 102 as being anticipated by United States Patent Number (USPN) 7,320,034 to Fichou et al. (hereinafter "Fichou"). Applicant respectfully traverses the rejection, and requests reconsideration and withdrawal of the anticipation rejection.

Applicant respectfully submits that to anticipate a claim under 35 U.S.C. § 102, the cited reference must teach every element of the claim. *See* MPEP § 2131, for example. Applicant submits that Fichou fails to teach each and every element recited in claims 1-3, 5-17, 25-26 and 29-34 and thus they define over Fichou. For example, with respect to claim 1, Fichou fails to teach, among other things, the following language:

receiving a packet to be routed to a destination at an intermediate network node configured to perform basic routing services for said packet;
determining whether said packet requires advanced routing services to route said packet to said destination which are not included in said basic routing services;
sending said packet from said intermediate network node to a hosted advanced routing server configured to perform said advanced routing services; and
routing said packet to said destination from at least one of said intermediate node and said advanced routing server.

According to the Office Action, this language is disclosed by Fichou at column 3, lines 4-7 and 13-34. Applicant respectfully disagrees.

Applicant respectfully submits that claim 1 defines over Fichou. Fichou at the given cite, in relevant part, states:

When source workstation 10 wants to send data packets to another workstation such as destination workstation 32, a virtual connection through backbone nodes such as backbone node 34 is established by reservation server 26 between source workstation 10 and destination workstation 32.

Although source workstation 10 may alternately utilize IP network 14 in a non-reserved mode, in accordance with the present invention, it may deliver a reservation request to reservation server 26 when required to accommodate a Quality of Service (QoS) requirement for a particular application. Such a reservation may be a direct reservation to reservation server 26, or a generic reservation forwarded by default router 16 to reservation server 26. Reservation server 26 performs user authentication and determines whether or not the reservation can be granted to this user. If so, the edge nodes involved in the connection, such as nodes 20 and 24, are informed of the new reserved flow, while in parallel, requesting workstation 10 is informed that it can proceed with the communication. A flow identification may be provided to speed up the recognition and validation of that flow at ingress node 20.

As indicated above, Fichou arguably discloses a source workstation, destination workstation, default router and a reservation server. The data transmission system of Fichou allows a source workstation to reserve a “virtual connection” using the reservation server so that packets may be sent at a later time over the “virtual connection” comprising backbone nodes. Before a “virtual connection” is established, the source workstation must send a reservation to the reservation server. The source workstation may either send a reservation directly to the reservation server or may send a reservation to the default router, which forwards the reservation to the reservation server. By way of contrast, the claimed subject matter discloses “receiving a packet to be routed to a destination at an intermediate network node configured to perform basic routing services for said packet; determining whether said packet requires advanced routing services to route said packet to said destination which are not included in said basic routing services;

sending said packet from said intermediate network node to a hosted advanced routing server configured to perform said advanced routing services; and routing said packet to said destination from at least one of said intermediate node and said advanced routing server.” The claimed subject matter discloses an intermediate network node that determines whether a packet requires advanced routing services to route said packet to a destination. If so, the packet is forwarded to an advanced router server prior to being sent to the destination so that the required advanced routing services may be performed.

Applicant respectfully submits that the reservation request disclosed by Fichou is different than the “packet to be routed to a destination” as disclosed by claim 1. Although the reservation request may be sent to the default router, it is not intended for the destination workstation. Furthermore, the reservation request is processed completely within the reservation server and is not routed “to said destination from at least one of said intermediate node and said advanced routing server” as disclosed by claim 1. Still further, Applicant respectfully submits that the packets sent after a “virtual connection” is established arguably are sent through backbone nodes and not routed “from at least one of said intermediate node and said advanced routing server” as disclosed by claim 1. Consequently, Fichou fails to disclose all the elements or features of the claimed subject matter. Accordingly, Applicant respectfully requests removal of the anticipation rejection with respect to claim 1. Furthermore, Applicant respectfully requests withdrawal of the anticipation rejection with respect to claims 2 and 3, which depend from claim 1 and, therefore, contain additional features that further distinguish these claims from Fichou.

Claims 5, 8, 12, 16, 18, 25 and 29 recite features similar to those recited in claim 1. Therefore, Applicant respectfully submits that claims 5, 8, 12, 16, 25 and 29 are not anticipated and are patentable over Fichou for reasons analogous to those presented with respect to claim 1. Accordingly, Applicant respectfully requests removal of the anticipation rejection with respect to claims 5, 8, 12, 16, 25 and 29. Furthermore, Applicant respectfully requests withdrawal of the anticipation rejection with respect to all claims that depend from claims 5, 8, 12, 16, 25 and 29, and therefore contain additional features that further distinguish these claims from Fichou.

35 U.S.C. § 103

At page 10, paragraph 6 claims 18-24, 27 and 28 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Fichou in view of USPN 7,046,680 to McDysan et al. (hereinafter “McDysan”). Applicant respectfully traverses the rejection, and requests reconsideration and withdrawal of the obviousness rejection.

The Office Action has failed to meet its burden of establishing a *prima facie* case of obviousness. According to MPEP § 2143, three basic criteria must be met to establish a *prima facie* case of obviousness. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success

must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). See MPEP 706.02(j).

Claims 18, 21, 23 and 27 recite features similar to those recited in claim 1. Further, Applicant respectfully submits that he is unable to find a teaching within the cited portions of McDysan to teach the subject matter of claim 1 as discussed above. Therefore, Applicant respectfully submits that claims 18, 21, 23 and 27 are not obvious and are patentable over the cited references for reasons analogous to those presented with respect to claim 1. Accordingly, Applicant respectfully requests removal of the obviousness rejection with respect to claims 18, 21, 23 and 27. Furthermore, if an independent claim is non-obvious under 35 U.S.C. § 103, then any claim depending therefrom is non-obvious. See MPEP § 2143.03, for example. Accordingly, Applicant respectfully requests withdrawal of the obviousness rejection with respect to all claims that depend from claims 18, 21, 23 and 27, and therefore contain additional features that further distinguish these claims from the cited references.

Conclusion

For at least the above reasons, Applicant submits that claims 1-3 and 5-34 recite novel features not shown by the cited references. Further, Applicant submits that the above-recited novel features provide new and unexpected results not recognized by the cited references. Accordingly, Applicant submits that the claims are not anticipated nor rendered obvious in view of the cited references.

Applicant does not otherwise concede, however, the correctness of the Office Action's rejection with respect to any of the dependent claims discussed above.

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TC/A.U. 2616

Accordingly, Applicant hereby reserves the right to make additional arguments as may be necessary to further distinguish the dependent claims from the cited references, taken alone or in combination, based on additional features contained in the dependent claims that were not discussed above. A detailed discussion of these differences is believed to be unnecessary at this time in view of the basic differences in the independent claims pointed out above.

It is believed that claims 1-3 and 5-34 are in allowable form. Accordingly, a timely Notice of Allowance to this effect is earnestly solicited.

The Examiner is invited to contact the undersigned at 724-933-9338 to discuss any matter concerning this application.

The Office is hereby authorized to charge any additional fees or credit any overpayments under 37 C.F.R. § 1.16 or § 1.17 to deposit account 50-4238.

Respectfully submitted,

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John F. Kacvinsky, Reg. No. 40,040
Under 37 CFR 1.34(a)

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